

RESPONSE UNDER 37 C.F.R. § 1.116
U.S. Application No.: 09/715,171

REMARKS

Claims 1-16 are all the claims pending in the application. None of the claims is being amended.

Rejection Under 35 U.S.C. 102(e)

Claims 1-16 are rejected under 35 U.S.C. 102(e) as being unpatentable by Kaaresoja (U.S. Patent 6,556,573). Applicants respectfully traverse this rejection in view of the following arguments.

Specifically, independent claims 1, 6, 12, 13 and 16 specifically recite a feature of the invention, wherein the data messages formatted in the second protocol and transmitted over the transmission channel include data messages of different lengths. This feature is described, for example, at page 12 and illustrated, for example, in figure 3, third graph, of the instant specification. On the other hand, Kaaresoja specifically teaches that all data messages (data cells) transmitted over the ATM network have the same fixed length of 53 octets, which includes 5-octet header and a 48-octet payload, see Kaaresoja, col. 2, lines 10-13. In the portion of the disclosure cited by the Examiner himself (col. 9, lines 47-50), Kaaresoja further specifically teaches that CPCS-PDU information sent over the aforesaid ATM network is segmented into the aforesaid fixed-length ATM payload cells for subsequent transmission. To this end, the CPCS-PDU information includes a PAD field 304, such that the length of the CPCS-PDU record is exact multiple of 48, see Kaaresoja, col. col. 9, lines 47-50. As Kaaresoja unambiguously describes, this is done so that the CPCS-PDU record could be segmented and incorporated into the fixed length ATM cells having 53-octet length and 48-octet payload for subsequent

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transmission. Thus, in Kaaresoja, the ATM network transmits only fixed length data cells (messages) having length of 53 octets. For this reason, the system of Kaaresoja, does not meet the specific limitations of independent claims 1, 6, 12, 13 and 16, which recite transmission of messages of different length over the transmission channel, and, therefore, these claims are not anticipated by Kaaresoja.

In the Office Action, the Examiner alleges that Kaaresoja teaches the different length messages transmitted over the ATM network in two portions of the disclosure. The first cited portion is at col. 6, lines 8-21 and 35-60. Applicant carefully examined the cited portion of Kaaresoja but could not find any such teaching. Specifically, at col. 6, lines 8-21 and 35-60 Kaaresoja describes transmitting SRTS timestamp using ATM cells. There is no teaching in the aforesaid portion of Kaaresoja that ATM cells have different length. The second portion of Kaaresoja referenced by the Examiner, which appears at col. 9, lines 25-62, teaches exactly the opposite of what the Examiner tries to assert. Specifically, in said portion, Kaaresoja states that the CPCS-PDU record carrying the SRTS timestamp is to be segmented into the standard, fixed length (48-octet payload length) ATM cells for transmission. Thus, the Examiner has failed to point out where Kaaresoja allegedly disclosed the claimed messages of different length. When the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such teaching or suggestion appears in the reference. See In re Rijckaert, 28 U.S.P.Q.2d 1955,7 (Fed. Cir. 1993). In the Office Action, the Examiner has clearly failed to do so.

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For all the foregoing reasons, claims 1, 6, 12, 13 and 16 are not anticipated by Kaaresoja. With respect to rejection of dependent claims 2-5, 7-11, 14 and 15, while continuing to traverse the Examiner's characterization of the teachings of Kaaresoja used by the Examiner in rejecting those claims, Applicant respectfully submits that these claims are patentable by definition, due to their dependency upon the respective patentable parent claims 1, 6 and 13. Therefore, claims 2-5, 7-11, 14 and 15 are also patentable.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

Pavel Pogodin
Registration No. 48,205

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: **March 19, 2007**